

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

FIDELITY INVESTMENTS LIFE INSURANCE)	
COMPANY, FIDELITY INSURANCE AGENCY,)	
INC., FIDELITY BROKERAGE SERVICES, LLC)	
)	
Plaintiffs,)	
)	Civil Action
v.)	No. 1:05-cv-00083-JD
)	
DENNIS RUPP, TIAA-CREF INDIVIDUAL &)	
INSTITUTIONAL SERVICES, INC.)	
)	
Defendants,)	
)	

STIPULATED CONSENT JUDGMENT AND INJUNCTION

Plaintiffs Fidelity Investments Life Insurance Company (“FILI”), Fidelity Insurance Agency, Inc. (“FIA”), and Fidelity Brokerage Services, LLC (“FBS”) (hereinafter collectively referred to as “Fidelity”) filed this action on March 15, 2005 seeking the entry of a temporary restraining order and preliminary injunction against defendants Dennis Rupp (“Rupp”) and his current employer, and for an order compelling arbitration before the National Association of Securities Dealers (“NASD”). The parties agreed to the entry of a Stipulated Temporary Restraining Order, which was executed by the parties and entered by the Court on March 21, 2005, so that the matter could be arbitrated before the NASD on an expedited basis. The parties now consent to entry of a permanent injunction, as set forth below.

Effective immediately and through March 4, 2006, Rupp, and anyone acting in concert with Rupp, is hereby restrained and enjoined from soliciting, whether directly or indirectly: (a) any business from any Fidelity customer whom Rupp served, solicited, or about whom Rupp obtained Fidelity Confidential Information (as defined herein) while employed at Fidelity (hereinafter “Fidelity Customers”); or (b) any business from any Fidelity prospect about whom Rupp obtained Fidelity Confidential Information (as defined herein) and with whom Rupp had contact during his

employment at Fidelity, including but not limited to, mail, telephone, email or in person. (hereinafter “Fidelity Prospects”).

Effective immediately, Rupp is hereby restrained and enjoined from using, disclosing, transmitting or continuing to possess, whether directly or indirectly “Fidelity Confidential Information” (which is defined herein as confidential business information contained in the records of Fidelity, which includes but is not limited to the names, addresses and confidential financial information of Fidelity Prospects or of Fidelity Customers) for any purpose, including contact with Fidelity Customers or Fidelity Prospects.

Effective immediately, Rupp’s current employer is hereby restrained and enjoined from using, disclosing, transmitting or continuing to possess, Fidelity Confidential Information provided by Rupp, or by anyone acting in concert with Rupp, for any purpose, including contact with Fidelity Customers or Fidelity Prospects.

Subject to the restrictions in Paragraphs 1, 2 and 3 above, Rupp’s current employer shall not be restrained from competing with Fidelity, or otherwise soliciting or attempting to solicit, or doing business or attempting to do business with, any Fidelity Customers or Fidelity Prospects, unless it has acted based on Fidelity Confidential Information, if any, provided by Rupp, whether directly or indirectly and/or whether acting alone or in concert with others.

This Stipulated Consent Judgment (“Consent Judgment”) expressly supersedes and renders null and void the Stipulated Temporary Restraining Order, executed by the parties and so ordered by this Court on March 21, 2005.

This Consent Judgment shall remain in full force and effect until March 4, 2006, after which it will automatically dissolve and no longer have any legal effect.

By entering into this Consent Judgment, Defendants make no admission of, and expressly deny, any liability or wrongdoing.

SO STIPULATED AND AGREED:

**DEFENDANTS DENNIS RUPP AND TIAA-CREF
INDIVIDUAL & INSTITUTIONAL SERVICES,
INC.**

By their attorneys,

**DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION**

Dated: August 24, 2005

By: /s/ Donald L. Smith

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**PLAINTIFFS FIDELITY INVESTMENTS LIFE
INSURANCE COMPANY, FIDELITY
INSURANCE AGENCY, INC., FIDELITY
BROKERAGE SERVICES, LLC**

By their attorneys,

WIGGIN & NOURIE, P.A.

By: /s/ Donald L. Smith for Thomas J. Pappas

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SO ORDERED:

/s/ Joseph A. DiClerico, Jr.
U.S.D.J.

September 6, 2005
Date

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